

1     Knowing what I know today, I should have been  
2     asking to see everything that she did.

3           Q.     So it would be fair to say that with  
4     respect to the November 19 letter, it was not  
5     something that you recall having seen at about  
6     that time?

7           A.     No, I don't. It's right around  
8     Thanksgiving, so I don't know. I also don't  
9     think she had the ability to grasp the  
10    significance of this compared to anything else  
11    that she was working on -- why one thing would be  
12    more important than another.

13          Q.     So persons other than yourself were  
14    involved in the hiring decision of Miss Dennie?

15          A.     Yeah. What I asked for was somebody  
16    that had an accounting background. Obviously,  
17    what I wanted was a CPA for the post. What I got  
18    was somebody that was skilled in legal aspects.

19          Q.     Now, I want to focus your attention on  
20    the Section 63.71 application that appeared as  
21    Attachment J to our request for our admissions.

1 And what we show is that this document was filed  
2 at the FCC in the sense that it reached the FCC  
3 mail room on December 27, 2002.

4 A. Okay.

5 Q. Do you know who on behalf of Business  
6 Options, Inc. prepared the application?

7 A. Lisa Green signed it.

8 Q. Do you know whether or not Lisa Green  
9 was the person who actually authored the  
10 application?

11 A. I don't know if it was Miss Green or  
12 Miss Dennie. From my understanding of the  
13 conversation, they had been helped out by FCC  
14 staff members in the preparation of this over a  
15 period of a couple of weeks. So Miss Green or  
16 Miss Dennie, I don't know that either of them  
17 would have the wherewithal to produce something  
18 like this. So as to who authored it, my guess  
19 would be an FCC staff member gave them everything  
20 except the signature line.

21 Q. Do you know who on behalf of Business

1 Options, Inc. reviewed the application?

2 A. Mr. John Mincoff was the staff person  
3 that was helping Miss Green. And it says in here  
4 in a fax to Miss Green, "Included with this fax  
5 are the two waiver orders that I spoke with  
6 Shannon about, along with an example of the 63.71  
7 application. Given the initial trouble getting  
8 this information to you, please give me a  
9 follow-up call just so I know you have received  
10 this fax." This was on 12-18. So I think Miss  
11 Dennie and Miss Green were working together on  
12 this.

13 Q. And I see that the application is  
14 signed by Miss Green. And I think you had  
15 indicated earlier that Miss Dennie was Miss  
16 Green's supervisor or manager, for the lack of a  
17 better term?

18 A. Yes, that's correct.

19 Q. Now, other than Miss Green and Miss  
20 Dennie, was there anybody at Business Options who  
21 approved the application?

1           A.     The only person that would have would  
2 have been me. And from these dates, I was in  
3 Florida; I was at Disney World.

4           Q.     So you were out of the office  
5 basically at Christmastime --

6           A.     Yeah.

7           Q.     -- of 2002?

8           A.     Yes.

9           Q.     Now, this will be a real test for your  
10 memory, and your wife is not here to beat you up  
11 if you are wrong -- do you remember the dates  
12 that you actually were away from the office?

13          A.     Yeah. Fairly shortly after December  
14 26, we had a baseball tournament at Disney World,  
15 and we took the whole baseball team. So I think  
16 it was on the 27th --

17          Q.     Okay.

18          A.     -- 26th or 27th.

19          Q.     You were home for Christmas?

20          A.     Yes.

21          Q.     Now, given that this Section 63.71

1 application was received by the FCC mail room on  
2 December 27, and it appears to have been dated  
3 December 20, 2002 --

4 A. Okay.

5 Q. -- I take it you were still in the  
6 office at that time?

7 A. Let me think. What was I doing then?  
8 I don't know if I was or wasn't. I was not in  
9 Florida at that time, but that last week -- the  
10 kids get out of school somewhere around the 15th  
11 or 18th, I don't know. But it's very possible I  
12 was in the office, though.

13 Q. Now, how did it come about that Miss  
14 Green signed the application?

15 A. I don't know.

16 Q. Would you say that in December of 2002  
17 that Miss Green had the authority to submit such  
18 an application on behalf of Business Options,  
19 Inc.?

20 MR. HAWA: I have to object to that.  
21 It calls for a legal conclusion. He said that

1 Lisa Green and Shannon Dennie were responsible  
2 for making regulatory filings. And the question  
3 of whether or not she had authority to make a  
4 particular filing, I think he can answer it if  
5 it's rephrased.

6 MR. SHOOK: Well the question as posed  
7 basically deals with what authority had been  
8 delegated within Business Options, Inc. to  
9 various individuals. So the context of the  
10 question is really in terms of according to how  
11 management and personnel were set up at Business  
12 Options, Inc., did Lisa Green have the authority  
13 to sign and submit such a document?

14 MR. HAWA: So not as a legal officer  
15 of the company, did she have authority to --

16 MR. SHOOK: Did she have authority  
17 within the realm her of responsibilities to sign  
18 such a document?

19 MR. HAWA: Okay.

20 WITNESS: I would not have had her --  
21 I don't think -- If I did have her, I don't think

1     that I should have had her sign such a document.  
2     Probably Miss Dennie, again going with I thought  
3     Miss Dennie was somebody who could step right in  
4     and fill Mr. Brzycki's shoes. But to delegate  
5     that down to Miss Green, who was an \$8 an hour  
6     employee, no, I don't that think she should have  
7     been signing a document like this.

8                     BY MR. SHOOK:

9             Q.     Yeah, I think that's probably the  
10     first for the FCC to get a document from somebody  
11     that's making \$8 an hour. Normally, they're a  
12     bit more pricey.

13            A.     Yeah, your new wage.

14                     MR. HAWA: I think I'm making \$8 a  
15     minute.

16                     MR. SHOOK: Yeah, we won't go there.

17                     MR. HAWA: It's on the record.

18                     BY MR. SHOOK:

19             Q.     Would it be fair to say then that in  
20     respect to the Section 63.71 application that you  
21     have not seen it prior to its filing with the

1 Federal Communications Commission?

2 A. I don't recall seeing this before.

3 Q. Before it was filed? I mean, when you  
4 said "before," I'm just adding to your statement  
5 to make sure we're on the same wavelength.

6 A. Yeah, I was referring to today.

7 Q. Oh, to today. Then I wasn't on the  
8 same wavelength.

9 MR. HAWA: While you are looking, can  
10 I ask you a question?

11 MR. SHOOK: Sure.

12 MR. HAWA: How was this filed with the  
13 commission? We had a heck of a time finding  
14 this. How was this received by the commission?

15 MR. SHOOK: I would assume from the  
16 stamp that it was sent by ordinary mail as  
17 opposed to hand delivery or courier delivery.

18 WITNESS: Is this the one you were  
19 asking us about?

20 MR. HAWA: Yeah, we couldn't find it  
21 filed at the commission.



1                   WITNESS: We didn't make a copy of it  
2 is what happened. Oh, and then you received it  
3 from these guys?

4                   MR. HAWA: No. Actually, I had to  
5 pull some strings and have somebody look more  
6 deeply into this than ordinary to find it.

7                   MR. SHOOK: Certainly what we have  
8 reflects that it was received in the FCC mail  
9 room and when I achieve genius level, I will be  
10 able to tell you what happens to documents once  
11 they get to the mail room. I'm still working on  
12 that.

13                   BY MR. SHOOK:

14                Q.     In any event, let me make sure that we  
15 are on the same page here.

16                A.     Okay.

17                Q.     In terms of the Section 63.71  
18 application, is it your testimony that you do not  
19 recall having read it prior to its filing with  
20 the Federal Communications Commission?

21                A.     Correct, I don't recall reading it or

1     seeing it.  If I did, I'll recant it at a later  
2     date.  But I don't recall seeing it.

3           Q.     And in fact, you don't recall having  
4     seen it prior to approximately when?

5           A.     I don't recall seeing it before just  
6     right now.  I may have seen it, but I've looked  
7     through a lot of documents over the last two  
8     months, and I don't recall seeing this one -- the  
9     application prior to today.

10          Q.     Have you had any conversations with  
11     Lisa Green in terms of how it was the application  
12     came to be prepared?

13          A.     I asked her about it.  I don't know if  
14     I had conversations with you or if you guys had  
15     conversations -- or my counselor had  
16     conversations with her.  But somebody indicated  
17     to me that she got help with I thought it was the  
18     waiver.  But I'm not quite sure I understand the  
19     difference between the two.

20          Q.     They were submitted at the same  
21     time --

1           A.     Okay.

2           Q.     -- so it's conceivable that that's  
3 what is going on -- that you learned what you  
4 learned in that context.

5           A.     Okay.

6           Q.     But my question is more narrow than  
7 that, and that is whether you have had  
8 conversations with Lisa Green in terms of how  
9 this document was prepared?

10          A.     Specifically regarding the waiver, I  
11 believe I asked Miss Dennie maybe a month or two  
12 ago if she had ever shown this document to me  
13 prior to it being sent off. And I think at that  
14 time we also asked Lisa if she had ever shown it  
15 to me. And I believe their answer was no.

16          Q.     Okay.

17          A.     I believe their answer was no as to  
18 the response to the waiver, not the actual  
19 application.

20          Q.     All right.

21          A.     And I think that that's when Miss

1 Green mentioned that she had gotten help by the  
2 FCC staff on that.

3 MR. HAWA: Jim, do you have a copy of  
4 the transmittal -- the fax transmittal from the  
5 FCC attaching the model waiver and the model  
6 continuous application?

7 MR. SHOOK: I don't have it with me,  
8 but I have seen it.

9 MR. HAWA: Okay.

10 BY MR. SHOOK:

11 Q. Now, in terms of the request for  
12 waiver, so we are sure we are both talking about  
13 the same thing, that was included in our  
14 attachment J, what we had was the 63.71  
15 application, which went for five pages. And then  
16 immediately following that was a sample letter  
17 that was going to be sent to Vermont customers or  
18 had been sent, one or the other. And then the  
19 final two pages was the request for waiver, which  
20 I believe we have been talking about. That's the  
21 request for waiver that you have in mind?

1           A.     This one here, yeah.

2           Q.     Two pages signed by Lisa Green, dated  
3     December 20, 2002?

4           A.     Yeah.

5           Q.     So in terms in asking about the  
6     application and the statements made therein, the  
7     person we would need to focus our attention on,  
8     to your understanding, would be Lisa Green?

9           A.     And Shannon Dennie.

10          Q.     And Shannon Dennie.

11          A.     Yes.

12          Q.     Would their be anybody else?

13          A.     No.

14          Q.     Likewise with the waiver?  If we had  
15     questions about the waiver --

16          A.     Yes.

17          Q.     -- again it would be Lisa Green and  
18     Shannon Dennie that we should focus on?

19          A.     Yes.

20                 MR. SHOOK:  I think I'm pretty close  
21     to the end.  What I'd like is five minutes to

1 consult with my co-counsel.

2 WITNESS: Okay.

3 (A short break was taken.)

4 BY MR. SHOOK:

5 Q. We had briefly talked about the  
6 circumstances of Shannon Dennie's hiring. And as  
7 I understand it from your testimony, Lisa Green  
8 was hired at about the same time as Shannon  
9 Dennie. Do you have any knowledge of the  
10 circumstances of Lisa Green's hiring?

11 A. Other than we knew we needed two  
12 people, I do not know who hired her or what her  
13 qualifications were. I, like with Shannon  
14 Dennie, just reviewed her resume' when I was  
15 reviewing documents within the last month.

16 Q. And I understand from what you said,  
17 perhaps in a joking manner, Lisa Green's salary  
18 is modest?

19 A. Yes. As is Miss Dennie's. Our future  
20 plan is to bring in somebody who is more  
21 qualified in these matters.

1 Q. And what is it that you know about  
2 Lisa Green's background?

3 A. I know that she came to us from  
4 K-mart, where she worked for an extended period  
5 of time; and before that, some other department  
6 store.

7 Q. In a retail capacity?

8 A. Yes.

9 Q. And what was it that she was hired to  
10 do?

11 A. She was hired to fill Miss Dixon's  
12 post, which was an assistant, a helper.

13 Q. Now, with respect to Mr. Brzycki, you  
14 had indicated he had been with the company for a  
15 number of years.

16 A. Yes.

17 Q. Could you tell us approximately when  
18 Mr. Brzycki joined Business Options?

19 A. The fall of 1995.

20 Q. And I think you had also indicated  
21 that Mr. Brzycki basically worked his way up

1 within the company to reach the stage where he  
2 was prior to his departure?

3 A. Yes.

4 Q. So what was he initially hired to do?

5 A. Treasury functions. He had just  
6 graduated from Purdue University, although he  
7 was -- I think he was roughly 30 years old -- he  
8 had taken a longer path. He worked his way  
9 through school. So although he was a new  
10 graduate, he was pretty mature. We had hired him  
11 to help us in our treasury area of our company.

12 Q. And did you know Mr. Brzycki prior to  
13 his having been hired with the company?

14 A. No.

15 Q. Are you aware of any medical problem  
16 or medical issues concerning Mr. Brzycki in the  
17 autumn of 2002?

18 A. A medical problem?

19 Q. Correct.

20 A. It seems that he wore some sort of a  
21 wrist brace. But not specifically, no.



1 Q. There was nothing life threatening  
2 that comes to mind?

3 A. No. Are you?

4 Q. No.

5 A. Oh, okay. It just seemed like an  
6 unusual question.

7 Q. We're full of them.

8 A. Okay.

9 Q. But in terms of a medical issue, the  
10 only thing you can think of right now is perhaps  
11 he had a brace on one of his wrists?

12 A. Yes. Mr. Brzycki is large, so I think  
13 there may be some problems there. He --

14 MR. HAWA: Don't speculate if you  
15 don't know.

16 A. Okay. I guess I'd rather not  
17 speculate. I don't know.

18 Q. That's fine. You mentioned the wrist  
19 matter and large. We can go from there.

20 A. Okay.

21 Q. You had also -- You indicated, though,

1     that with respect to your brother Keanan that he  
2     had been out of the office for some period of  
3     time due to a health matter of some sort.

4             A.     Uh-huh.

5             Q.     Approximately, what period of time was  
6     he actually out of the office?

7             A.     I should think about -- I think it  
8     started in July of 2001 is when he out. He was  
9     mountain climbing on Mt. Rainier. At midnight,  
10    he had hiked up to some peak, and he fell off.  
11    And it was one of those things -- I don't know,  
12    it did something to his body. Because shortly  
13    after that he -- I think it was July of 2001 and  
14    in August of 2001 he overheated in his office,  
15    and Mr. Brzycki took him to the hospital. He  
16    felt like he was having a heart attack or  
17    something. And two or three months later, I  
18    believe it was November of 2001, again he thought  
19    he was having some type of a heart problem, so we  
20    got him back to the emergency room. He stayed  
21    out of the office for nearly six months -- at

1     least for the first six months of 2002. Then he  
2     came back part-time after that. Probably within  
3     the last six months, he has been back on his  
4     post.

5           Q.     So for the last six months, whatever  
6     it was that was bothering him seems to have  
7     resolved itself?

8           A.     It has improved, but he's not certain  
9     what it was. If his heart palpitates or  
10    something -- He has always been very health  
11    conscious, has always worked out and been very  
12    fit. So anything that's not quite right, he is  
13    very aware of. So he went and did a series of  
14    tests and they never found anything, so they're  
15    not sure what it was.

16          Q.     Okay. There's one final area I want  
17    to cover, and that concerns the letter of inquiry  
18    the FCC had sent to Business Options, Inc. in  
19    November of 2002 --

20          A.     Okay.

21          Q.     -- that appears as Attachment L of our

1 admissions request.

2 A. In here, okay.

3 Q. The admissions themselves and the  
4 responses concerning that letter begin on  
5 admissions number 748, so it's toward the end.  
6 And as far as the attachment itself is concerned,  
7 it's something I don't have your response, but I  
8 can show you if it turns out that you don't have  
9 one right there.

10 MR. HAWA: No, I do. I have a copy  
11 right here in the response.

12 MR. SHOOK: Maybe it's better that I  
13 don't use the admissions request copy.

14 MR. HAWA: I have a copy right here.

15 BY MR. SHOOK:

16 Q. All right. The letter that was sent  
17 by the FCC, which covers six pages, is dated  
18 November 1, 2002, it's addressed to the legal  
19 department of Business Options, Inc., and it  
20 bears the signature of -- oh, I know who it is --  
21 it's Curt Schroeder, and it's signed on behalf of

1 Colleen Hidecamp.

2 A. Okay.

3 Q. Now, with respect to this letter, my  
4 first question to you is, at what point in time  
5 do you recall becoming aware that this letter had  
6 been sent to Business Options?

7 I neglected to mention that with  
8 respect to the letter there were also two pages  
9 of names that were added on at the end, and they  
10 reference complaints that had been filed with the  
11 Maine Public Utilities Commission, and they  
12 include a series of names.

13 A. To answer your question, I believe it  
14 was probably early -- my first recollection is  
15 early part of December, because it's when I sat  
16 down and looked at this with Miss Dennie, and she  
17 wanted to respond to it. She asked me where to  
18 go to get the responses. So for each of the  
19 different numbers, I told you, "You go to this  
20 area of the company for this; you go to this area  
21 of the company for that."

1           Q.       So Miss Dennie had brought this letter  
2 to your attention roughly a month after it was  
3 dated?

4           A.       That is my recollection.

5           Q.       With respect to something that would  
6 have been sent by certified mail, as is reflected  
7 on the first page of the letter, what company  
8 procedure do you have or did you have about this  
9 time -- November of 2002 -- in terms of who would  
10 sign for such mail?

11          A.       Our receptionist would sign for the  
12 mail and then deliver it to our regulatory  
13 people. For the last five years, it was always  
14 Mr. Brzycki, and then it was Miss Dennie.

15          Q.       All right. So in terms of the letter  
16 being addressed to the legal department, in the  
17 first instance the letter would have been  
18 directed to Miss Dennie?

19          A.       Yes. I said early December; it may  
20 have been early November if this letter was dated  
21 November 1. Yeah, I think she was hired at the

1 end of October, so I think it was early to  
2 mid-November.

3 Q. So this was a matter that, your  
4 recollection is, she brought to your attention?

5 A. Yes.

6 Q. Then at the least, you had briefly  
7 discussed with her in terms of where to go in  
8 order to come up with the information to respond  
9 to the various requests?

10 A. Uh-huh. Like, for telemarketing  
11 scripts, here's where to go to get that.

12 Q. Right. There were twelve different  
13 categories of information that were requested.  
14 And you and Miss Dennie discussed each of the  
15 twelve in terms of where she should go to get  
16 information?

17 A. That's my copy -- okay, here we go.  
18 Her notes are on numbers 4, 5, 6, 7, 10 and 11.  
19 So those I can say we discussed as to where she  
20 should go to get the information. And maybe 1, 2  
21 and 3 here.

1           Q.       So the copy of the letter that you are  
2 looking at bears some notes that Miss Dennie had  
3 written on it.

4           A.       Yeah. She would have taken those  
5 notes when she was asking me a question. Number  
6 4, for example, says, "Provide copies of all  
7 telemarketing -- blah, blah, blah." She writes,  
8 "Mike" -- who is our sales manager in that  
9 division five -- "for verification scripts," or  
10 something.

11          Q.       Now, in terms of the requirement for  
12 an affidavit or a declaration that appears on the  
13 signature page of the letter, was that something  
14 that you and Miss Dennie talked about?

15          A.       I am not sure what you are referring  
16 to.

17          Q.       Well, the signature page -- oops, you  
18 just passed it. Go back to the signature page,  
19 and then look at the top of that page.

20          A.       "Please provide a copy of" -- I don't  
21 recall discussing that with Miss Dennie.



1           Q.     Did you discuss with Miss Dennie what  
2 review of her response, if any, there should be  
3 from you prior to this being sent to the Federal  
4 Communications Commission?

5           A.     No. She did show me her responses.

6           Q.     So as far as that goes, let's look at  
7 what is labeled as Attachment M of our request  
8 for admissions, and that is a December 9, 2002  
9 letter directed to Mr. Wolfe, signed by Shannon  
10 Dennie, and then there a number of pages of  
11 attachments that follow.

12          A.     Would that be it here?

13                 MR. HAWA: Yes.

14          A.     Okay. I don't have a cover letter to  
15 Mr. Wolfe, I don't think.

16                 MR. HAWA: I don't think there was a  
17 cover letter.

18          Q.     Let me show you what I have.

19          A.     Okay.

20                 MR. HAWA: I do have it.

21          A.     We do have it.